

GORDON STEFENHAGEN

Mayor

JESSE M. LUERA

Vice Mayor

CHERI KELLEY

Councilmember

MICHAEL MENDEZ

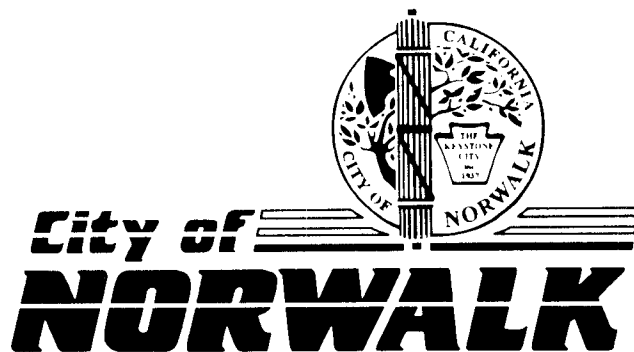
Councilmember

RICK RAMIREZ

Councilmember

ERNIE V. GARCIA

City Manager



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January 4, 2006

Ms. Violet Verona-Lukens, Executive Officer
Board of Supervisors, Los Angeles County
Room 383, Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Re: City of Norwalk – Special Municipal Election – April 11, 2006

Dear Ms. Verona-Lukens:

The Norwalk City Council at its January 3, 2006 meeting, adopted:

- ♦ Resolution No. 06-02, calling and giving notice of the holding of a Special Municipal Election to be held on Tuesday, April 11, 2006; and
- ♦ Resolution No. 06-03, requesting the Board of Supervisors of the County of Los Angeles to render specified services to the City relating to the conduct of a Special Municipal Election to be held on Tuesday, April 11, 2006.

A certified copy of each of the resolutions is enclosed for the Board's review and action to approve services.

Sincerely,


Theresa Devoy
City Clerk

cc: Conny McCormack, Registrar-Recorder/County Clerk – Elections Division
Martin & Chapman Co.

RESOLUTION NO. 06-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORWALK REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 11, 2006

WHEREAS, a Special Municipal Election is to be held in the City of Norwalk on Tuesday, April 11, 2006; and

WHEREAS, in the course of conduct of the election it is necessary for the City to request services of the County; and

WHEREAS, all necessary expenses in performing these services shall be paid by the City of Norwalk;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORWALK, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That pursuant to the provisions of §10002 of the Elections Code of the State of California, this City Council requests the Board of Supervisors of the County to permit the County Election Department to prepare and furnish to the City for use in conducting the election the computer record of the names and addresses of all eligible registered voters in the City in order that the City may print labels to be attached to self-mailer sample ballot pamphlets; and will also furnish to the City printed indices of the voters to be used by the precinct board at the polling place, and will make available to the City additional election equipment and assistance according to state law.

Section 2. That the City shall reimburse the County for services performed when the work is completed and upon presentation to the City of a properly approved bill.

Section 3. That the City Clerk is directed to forward without delay to the Board of Supervisors and to the County Election Department, each a certified copy of this resolution.

Section 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

APPROVED AND ADOPTED this 3rd day of January, 2006.


GORDON STEFENHAGEN
MAYOR

ATTEST:

I, Theresa Devoy, City Clerk of the City of Norwalk, California **DO HEREBY CERTIFY** that the foregoing Resolution, being Resolution No. 06-03 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Norwalk City Council, held January 3, 2006, and that the same was approved and adopted by the following vote to wit:

AYES: Councilmembers Kelley, Mendez, and Ramirez, Vice Mayor Luera, and Mayor Stefenhagen

NOES: None

ABSENT: None


THERESA DEVOY
CITY CLERK

RC20060103
20060103 14:47:22

RESOLUTION NO. 06-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORWALK CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, APRIL 11, 2006, FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE CITY A PROPOSED ORDINANCE TO AFFIRM CONTINUING COLLECTION OF THE CITY'S EXISTING 10% TRANSIENT (HOTEL) OCCUPANCY TAX

WHEREAS, the City Council of the City of Norwalk, desires to submit to the voters at a Special Municipal Election a proposed ordinance relating to the City's transient occupancy (hotel) tax; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed ordinance to the voters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORWALK, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Norwalk, California, on Tuesday, April 11, 2006, a Special Municipal Election for the purpose of submitting to the voters of the City of Norwalk the measures specified in Sections 2, 3 and 4, below. The continued collection of a transient occupancy (hotel) tax as a general tax at a rate of ten percent (10%), (Measure "A"), is hereby proposed, pursuant to Article XIIC, Section 2(b) of the California Constitution and Government Code Sections 53723 and 53724. Pursuant to Government Code Section 53724(d) and Elections Code Section 9222, it is the intent of the City Council that the measures be submitted to the voters of Norwalk at the aforementioned Special Municipal Election.

Section 2. Measure "A" is being submitted to the voters for ratification at a special election prior to June of 2006 as agreed by the City and the Howard Jarvis Tax Payers Association in an agreement to settle a claim. The City Council hereby finds and declares by a unanimous vote that a fiscal shortfall would ensue in the City necessary to provide an acceptable level of municipal services if collection of the tax does not continue. There is no scheduled regular municipal election prior to June of 2006. Given the requirements of the stipulation, pursuant to Article XIIC Section 2(b) of the California Constitution, the City Council hereby orders that Measure "A" be submitted to the voters at a special election, rather than the next regular municipal election:

Measure "A"	Shall Ordinance No. 06-1568 be adopted to continue the existing 10% tax that is paid only by guests in hotels and motels and that provides funds for vital City general services, such as public safety, parks and recreation, and street improvements?	YES
		NO

Section 3. The type of tax is a transient occupancy (hotel) tax imposed on only on hotel and motel patrons in the City, as defined in Exhibit A, to the extent permitted by state and federal law. The rate of the tax shall not exceed 10% and hotel proprietors shall collect the tax from all hotel patrons, to be remitted to the City thereafter for general City services. The full text of the ordinance to be submitted to the voters is as follows:

MEASURE "A"

"ORDINANCE NO. 06-1568"

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF
NORWALK RATIFYING THE CITY'S EXISTING
TRANSIENT OCCUPANCY TAX OF TEN PERCENT (10%)
AND AMENDING SECTION 3.32.030 OF THE NORWALK
MUNICIPAL CODE**

THE PEOPLE OF THE CITY OF NORWALK DO ORDAIN AS FOLLOWS:

Section A. Chapter 3.32 of the Norwalk Municipal Code ('Code') entitled 'Transient Occupancy Tax' which applies a ten percent (10%) tax rate on all hotel room charges in the City of Norwalk is hereby amended as of July 1, 2006 as set forth in Chapter 3.32 of the Code, attached hereto as Exhibit "A" and incorporated herein by this reference to affirm the Transient Occupancy Tax of ten percent (10%).

Section B. The City is hereby authorized to continue to impose and collect the Transient Occupancy Tax as provided by the terms set out in Chapter 3.32 of the Code.

Section C. In no event may the City Council alter the provisions of section 3.32.030 to increase the ten percent (10%) rate on hotel rooms without the approval of a majority of voters of the City, voting on the question of the tax rate; provided, however, the City Council is hereby authorized to amend any other provisions of Chapter 3.32 of the Code by three (3) affirmative votes of its members to, without limitation, carry out the general administrative purposes of Chapter 3.32 of the Code to reasonably implement the collection of the transient occupancy tax through hotel proprietors as authorized in Chapter 3.32 of the Code.

Section D. It is the intent of the voters to apply the provisions of Chapter 3.32 of the Code to the fullest extent permitted by the law to ratify the City's previous and continued collection of the tax.

Section E. This Ordinance shall be effective only if approved by a majority of voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council."

Section 4. That the ballots to be used at the election shall be in form and content as required by law.

Section 5. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

Section 6. That the polls shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until seven o'clock p.m. of the same day when the polls shall be closed, except as provided in §14401 of the Elections Code of the State of California.

Section 7. That pursuant to Elections Code §12310, a stipend for services for the persons named as precinct board members is fixed at the sum of \$100 for each inspector and \$75 for each Clerk for the election. The rental for each polling place, where a charge is made, shall be the sum of \$25 for the election. When required, the compensation of the custodian of a building shall be \$25 for the election.

Section 8. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Section 10. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

APPROVED AND ADOPTED this 3rd day of January, 2006.


GORDON STEFENHAGEN
MAYOR

ATTEST:

I, Theresa Devoy, City Clerk of the City of Norwalk, California **DO HEREBY CERTIFY** that the foregoing Resolution, being Resolution No. 06-02 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Norwalk City Council, held January 3, 2006, and that the same was approved and adopted by the following vote to wit:

AYES: Councilmembers Kelley, Mendez, and Ramirez, Vice Mayor Luera, and Mayor Stefenhagen

NOES: None

ABSENT: None

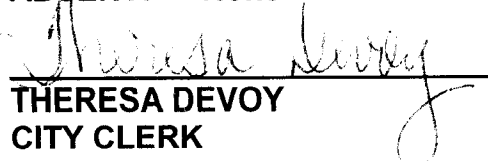

THERESA DEVOY
CITY CLERK

EXHIBIT "A"

Chapter 3.32 UNIFORM TRANSIENT OCCUPANCY TAX

Sections:

- 3.32.010 Title.
- 3.32.020 Definitions.
- 3.32.030 Tax imposed.
- 3.32.040 Exemptions.
- 3.32.050 Operator's duties.
- 3.32.060 Registration.
- 3.32.070 Reporting and remitting.
- 3.32.080 Penalties and interest.
- 3.32.090 Failure to collect and report tax--Determination of tax by Finance Director.
- 3.32.100 Appeal.
- 3.32.110 Records.
- 3.32.120 Refunds.
- 3.32.130 Actions to collect.
- 3.32.140 Violations.

3.32.010 Title.

This chapter shall be known as the uniform transient occupancy tax ordinance.
(Prior code § 9-2.1)

3.32.020 Definitions.

As used in this chapter:

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, when so occupied, intended or designed.

"Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes, and "occupy" means to have such use, possession or right.

"Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his or her functions through a managing agent or any type or character other than an employee, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money,

goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

"Tenant" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement.

"Transient" means any tenant who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy; provided, however, that persons making their regular residence in and occupying a room or rooms as tenant for rental periods of not less than one week in a hotel which does not rent or offer to rent rooms for lesser periods and which does not hold itself out as a "motel" or "hotel" shall not be deemed a transient. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered. (Prior code § 9-2.2)

3.32.030 Tax imposed.

For the privilege of occupancy in any hotel or motel, each transient (guest) is subject to and shall pay a tax in the amount of ten percent (10%). This tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Finance Director may require that such tax shall be paid directly to the Finance Director. (Prior code §9-2.3)

3.32.040 Exemptions.

No tax shall be imposed upon:

- A. Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax provided in this chapter;
- B. Any federal or State of California officer or employee when on official business;
- C. Any officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Finance Director. (Prior code § 9-2.4)

3.32.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from each transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this chapter. Any operator failing or refusing to collect any tax imposed by this chapter shall be liable for the full amount thereof, and shall remit the same to the Finance Director at the same time as taxes collected are required to be so remitted by Section 3.32.070. (Prior code § 9-2.5)

3.32.060 Registration.

Within thirty (30) days after the effective date of this chapter, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the Finance Director and obtain from him or her a "Transient Occupancy Registration Certificate," which certificate shall thereafter be at all times posted in a conspicuous place on the premises. Such certificate shall among other things, state the following:

- A. The name of the operator, and of the managing agent, if any;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D. The following statement:

This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Tax Ordinance of the City of Norwalk by registering with the Finance Director of the City of Norwalk for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Finance Director. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all applicable local laws, including but not limited to those requiring a permit or business license from any department or office of this City. This certificate does not constitute a permit or business license.

(Prior code §9-2.6)

3.32.070 Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Finance Director as provided in this chapter, make a return to the Finance Director, on forms provided by him or her, of total rents charged and received and the amount of tax collected for transient occupancy, and shall also report the total rents charged upon which it is claimed no transient occupancy tax was or is due. At the time the return is filed, the full amount of the tax collected shall be remitted to the Finance Director. The Finance Director may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax; provided that, such certificate holder has established a record of being delinquent in reporting and/or remitting taxes accruing hereunder, and the Finance Director may also

establish such shorter reporting periods for any certificate holder upon request therefrom. (Prior code §9-2.7)

3.32.080 Penalties and interest.

A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten (10) percent of the amount of the tax in addition to the amount of the tax.

B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten (10) percent of the amount of the tax in addition to the amount of the tax and the ten (10) percent penalty first imposed.

C. Fraud. If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud on the part of such operator, his or her agents or employees, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsection A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalties Merged with Tax; Waiver. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid. Any penalty may, for good cause, be waived; provided that, a report thereof is made to the City Council. (Prior code §9-2.8)

3.32.090 Failure to collect and report tax-- Determination of tax by Finance Director.

If any operator shall fail or refuse to collect the tax or to make, within the time provided in this chapter, any report and/or remittance of such tax or any portion thereof required by this chapter, the Finance Director shall proceed in such a manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due as soon as the Finance Director shall procure such facts and information as he or she is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same or to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Finance Director shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known place of address. Such operator may, within ten (10) days after the serving or mailing of such notice, make application in writing to the Finance Director for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Finance Director shall become final and conclusive and immediately due and payable by such operator. If such application is made, the Finance Director shall give not less than five days written notice in the manner prescribed in this chapter to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer

evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the Finance Director shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this chapter of such determination and of the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 3.32.100. (Prior code §9-2.9)

3.32.100 Appeal.

Any operator aggrieved by any decision of the Finance Director with respect to the amount of such tax, interest and penalties may appeal to the City Council by filing a notice of appeal with the City Clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The City Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his or her last known place of address or at the address designated in the notice of the appeal. The findings of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice thereof. (Prior code §9-2.10)

3.32.110 Records.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of three years, all records which may be necessary to determine the amount of such taxes as may have accrued to the City and for the collection or payment of which such operator is responsible. The Finance Director shall have the right to inspect such records at all reasonable times, but shall hold the same in confidence and utilize the same only for the purposes of this chapter. (Prior code §9-2.11)

3.32.120 Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter it may be refunded as provided in subsections B and C of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Finance Director within three years of the date of payment. The claim shall be on forms furnished by the Finance Director.

B. An operator may claim a refund or take as a credit against taxes collected and to be remitted the amount previously overpaid, paid more than once, or paid after being erroneously or illegally collected or received when it is established in a manner prescribed by the Finance Director that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax to be refunded or credited, if collected from a tenant or other person, has either been refunded to such person or credited to rent subsequently payable by such person to the operator.

C. A tenant may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in subsection A of this section, but only when tax was paid by the tenant directly to the Finance Director, or when the tenant, having paid the tax to an operator,

establishes to the satisfaction of the Finance Director that the tenant has applied for and been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto. (Prior code §9-2.12)

3.32.130 Actions to collect.

Any tax required to be paid by any transient or operator under the provisions of this chapter shall be deemed a debt owed by such transient or operator to the City. Any such tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount, which remedy shall be in addition to all other remedies, civil or criminal, provided by law, including the provisions of the Norwalk Municipal Code. (Prior code §9-2.13)

3.32.140 Violations.

Any operator or other person who fails to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data reasonably required by the Finance Director, or who renders a false or fraudulent return or claim, or who fails to permit reasonable inspection by the Finance Director of his or her records as provided in this chapter, is guilty of a misdemeanor. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due, which determination is required by this chapter to be made, is guilty of a misdemeanor. (Prior code §9-2.14)